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MOA 1997 No. 14 Interim Measures for Seed Trade

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Report Highlights:

On July 13, the semi-official seed industry website (www.seedchina.com.cn) republished the Ministry of Agriculture (MOA) 1997 Decree No. 14 "Interim Measures for the Management of Agricultural Crop Seeds (Seedlings) Import and Export." The re-release of this information appears to be part of MOA's efforts to provide greater transparency and order to the planting seed industry. The UNOFFICIAL translation of the "Interim Measures" was not previously issued as a GAIN report. The Measures clarify the onerous process for Chinese importers and exporters wishing to trade seeds. As this is an old Measure, it is not expected to cause any significantly new impact on exports of US seeds and seedlings to China.

Includes PSD Changes: No
Includes Trade Matrix: No
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Disclaimer

While every possible care was taken in the preparation of this report, information provided may not be completely accurate either because policies have changed since its preparation, or because clear and consistent information about these policies was not available. It is highly recommended that U.S. exporters verify the full set of import requirements with their foreign customers, who are normally best equipped to research such matters with local authorities, before any goods are shipped. FINAL IMPORT APPROVAL OF ANY PRODUCT IS SUBJECT TO THE IMPORTING COUNTRY'S RULES AND REGULATIONS AS INTERPRETED BY BORDER OFFICIALS AT THE TIME OF PRODUCT ENTRY.

Executive Summary

On July 13, 2004 China's seed industry website (www.seedchina.com.cn/pat/news/newsdetail.asp?ID=342) re-published the Ministry of Agriculture (MOA) March 28, 1997 Decree No. 14. The re-release of the information is likely linked to the publication of MOA 2004 Circular No. 30 "Circular on Further Strengthening and Standardizing Seed Management Work" (CH4061). The Circular aims at bringing greater market order and transparency to China's seed sector. The seed sector continues witnessing dynamic changes stemming from adoption of the Seed Law (CH0031) and the Seed Law Implementation Regulations (CH1052).

The UNOFFICIAL translation of Decree No. 14 from 1997 is below. Information in this Decree pertaining to the bonded import of planting seeds for processing and re-export no longer appears relevant as the Ministry of Commerce and other government offices issued bulletins in 1999 and again in 2004 banning the practice of bonded seed trade for processing and re-export in its "Catalogue of Banned Imports Under the (scope of the) Processing Trade."

BEGIN TRANSLATION**Interim Measures for the Management of Agricultural Crops Seeds (Seedlings) for Import and Export****Chapter I. General Provisions**

Article 1. These measures are formulated to further implement seed related administrative statutes, strengthen seed resource management and promote agricultural crop seeds (seedlings) foreign trade and cooperation.

Article 2. Agricultural crop seeds (seedlings) referred to in these Measures (hereinafter referred to as agricultural crop seeds) include seed resources imported from abroad (hereinafter referred to as import and export seed resources) and used for foreign exchange and research and seeds for import and export production. Seeds for import and export production include seeds for testing, commercial seeds for farming, and seed for export-oriented breeding.

Article 3. Any unit engaged in import and export of seeds for production and providing seed resources to foreign clients shall hold qualifications of a Chinese legal entity. Individuals are prohibited from engaging in import and export of seeds for production and providing seed resources to foreign clients. Any unit dealing in import and export of commercial seeds for farming shall hold the production and marketing rights for seeds corresponding to the category authorized for import and export along with the right to import and export; those without any right to import and export shall have an agent possessing the right to import and export agricultural crop seeds as designated by the Ministry of Agriculture.

Chapter II. Management of Seed Resources for Import and Export

Article 4. Export of seed resources shall be managed according to crop seed resource classification catalogue. Seed resources belonging to “conditional export-oriented exchange” and “allowed for export-oriented exchange” shall be examined and verified by the agriculture administrative departments at the provincial level and then sent to a variety resources research institute of the Chinese Academy of Agricultural Science (hereinafter referred to as variety resources institute) to receive consent from the Ministry of Agriculture for approval; Seed resources belonging to the category “not allowed for export-oriented exchange” and non catalogued seed resources shall not be allowed for export-oriented exchange. In special circumstances, examination and verification shall be obtained from the variety resources research institute, before approval by the Ministry of Agriculture. Any unit or individual who introduces seed resources shall register with the variety resources research institute and provide a proper amount of seeds for keeping and utilization.

Article 5. Application, examination and approval of seed resources for foreign exchange:

(1) The unit involving foreign exchange shall file an application to the examination and verification unit and complete the “Application Form of Agricultural Crop Seed Resources for Foreign Exchange” (see Appendix 1), and submit the explanation of seed resources for foreign exchange. After being approved by the verification unit, the application shall be transferred to the examination and approval department for examination and approval.

(2) Upon approval, the variety resources research institute shall issue “permit of agricultural crop seed resources export” (see Appendix 2), affixed with the special stamp of “Examination and Approval of Agricultural Crop Seed Resources for Foreign Exchange by the Ministry of Agriculture.” The foreign exchange unit engaged in seed resources shall go to the plant quarantine institutions for quarantine examination and approval procedures, by presenting “Permit of Agricultural Crop Seed Resources Export.” The “Permit of Agricultural Crop Seed Resources Export” shall serve as the basis for customs clearance.

Chapter III. Administration of Import and Export of Seeds for Production

Article 6. Import and export of seeds for production shall be examined and verified by the agriculture administrative departments at the provincial level and examined and approved by the Ministry of Agriculture.

Article 7. The principle of small in quantity but high in quality shall be adhered to for seeds imported for testing. For each imported variety, the quantity shall be limited to within the use of sowing 10 mu of farmland for seeds and 100 stems for seedlings.

Article 8. The test of imported seeds shall be made under the arrangement and guidance by the varieties verification committee at the state or provincial level.

Article 9. Applications for importing commercial seeds for farming, shall conform to the following conditions:

(1) The crop varieties verification committee at the state or provincial level shall approve the variety. For varieties without domestic verification, for the time being, but are urgently needed in production, an introductory test report for at least 2 breeding cycles shall be submitted.

(2) Seed quality shall meet national or industrial standards; for seeds not covered by national or industrial standards, contract provisions shall be specified or the related international standards shall be referenced.

Article 10. Article 9 shall not restrict import of seeds for export-oriented breeding, but the seeds bred shall not be sold in China.

Article 11. Units engaged in import of commercial seeds for farming shall submit the seeds import plan for the next year to local agriculture administrative departments at the provincial level before the end of August each year, which shall be collected and submitted to the Ministry of Agriculture by the agriculture administrative departments at the provincial level before the end of October.

Article 12. The State encourages seeds export, but the varieties listed as "not allowed for foreign exchange," those not catalogued, and parent seeds of crossbred crops shall, in principle, not be exported. For particular cases, approval shall be obtained from the Ministry of Agriculture.

Article 13. Application and approval of import and export of seeds for production:

(1) The importers (or exporters) shall file an application to the verification institution and complete the "Examination and Approval Form of Import (Export) of Agricultural Crop Seeds (Seedlings)" (see Appendix 3), and submit an explanation of the seed varieties to be imported or exported; To handle the importation of seeds for export-oriented breeding, the contract (or agreement) of export-oriented breeding shall be submitted; To handle import and export of commercial seeds for farming, the "seeds business license," the "business license" and the supporting documents for the right of seeds import and export shall be submitted.

With the consent of the examination and verification department, these documents shall be submitted to the examination and approval department.

(2) Upon approval by the examination and approval department, the special stamp of the "examination and approval of import and export of agricultural crop seeds by the Ministry of Agriculture of the People's Republic of China" shall be affixed. Seed importers and exporters shall go to the plant quarantine authority for quarantine examination and approval procedures, by presenting valid "Examination and Approval Form of Import (Export) of Agricultural Crop Seeds (Seedlings)." To handle agricultural crop seeds imports, the Ministry of Agriculture shall issue an "examination and approval certification of free import of animals and plants seedlings" (see Appendix 4) that serves as the basis for duty free customs entry clearance.

Chapter IV. Supervision of Management of Import and Export of Agricultural Crop Seeds

Article 14. Variety resources research institutes shall submit the report on examination and approval of import and export of seed resources for the preceding quarter to the Ministry of Agriculture before the tenth day of the first month in each quarter; and submit the work summary of the preceding year to the Ministry of Agriculture prior to January 10 of the following year.

Article 15. Any staff member of the agriculture administrative departments and the related departments who violate this Measure in processing the import and export examination and approval or quarantine examination and approval shall be punished with administrative penalties by the concerned unit or the higher authorities; those who committed crimes shall be prosecuted by judicial authorities for criminal liability.

Chapter V. Miscellaneous Provisions

Article 16. "Examination and Approval Form of Import (Export) of Agricultural Crop Seeds (Seedlings)" shall be printed by the Ministry of Agriculture; "Application Form of Agricultural Crop Seed Resources for Foreign Exchange" and the "Permit of Export of Agricultural Crop Seed Resources" shall be printed by the Variety Resources Research Institute entrusted by the Ministry of Agriculture.

Article 17. The "Examination and Approval Form of Import (Export) of Agricultural Crop Seeds (Seedlings)," shall be valid for six months and the "Examination and Approval Certification of Free Import of Animals and Plants Offspring" and "Permit of Agricultural Crop Seed Resources Export" shall be valid for three months. For any expiration or modification on varieties, quantity, country or region of the import and export of seeds, the examination and approval application shall be processed again.

Article 18. For import and export of agricultural crop seeds, the plant quarantine formalities shall be processed in accordance with the "Law of the People's Republic of China on the Entry and Exit Animal and Plant Quarantine" and the "Regulations of the People's Republic of China on the Plant Quarantine."

Article 19. The Ministry of Agriculture shall interpret these Measures.

Article 20. These Measures shall enter into force on the issuing date.

END TRANSLATION